

# **JOURNAL OF THE HOUSE**

## **EIGHTY-EIGHTH SESSION**

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EIGHTEENTH DAY

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STATE OF SOUTH DAKOTA  
House of Representatives, Pierre  
Tuesday, February 5, 2013

The House convened at 2:00 p.m., pursuant to adjournment, the Speaker presiding.

The prayer was offered by the Chaplain, Pastor Oliver Omanson, followed by the Pledge of Allegiance led by House pages Scot Mah and Ryder Wilson.

Roll Call: All members present except Rep. Carson who was excused.

### **APPROVAL OF THE JOURNAL**

MR. SPEAKER:

The Committee on Legislative Procedure respectfully reports that the Chief Clerk of the House has had under consideration the House Journal of the seventeenth day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,  
Brian G. Gosch, Chair

Which motion prevailed.

**HONORED GUESTS**

Speaker Gosch introduced Rachel Audiss, State Voice of Democracy winner from Colome, South Dakota and Callie Mueller, Patriot's Pen winner from Clark, South Dakota.

**REPORTS OF STANDING COMMITTEES**

MR. SPEAKER:

The Committee on Agriculture and Natural Resources respectfully reports that it has had under consideration HB 1029 and 1168 and returns the same with the recommendation that said bills do pass.

Also MR. SPEAKER:

The Committee on Agriculture and Natural Resources respectfully reports that it has had under consideration HB 1083 and returns the same with the recommendation that said bill do pass and be placed on the consent calendar.

Also MR. SPEAKER:

The Committee on Agriculture and Natural Resources respectfully reports that it has had under consideration HB 1002 and returns the same with the recommendation that said bill be amended as follows:

1002ja

On page 1, line 14, of the printed bill, after "appoint" delete "the" and insert "a".

On page 2, delete line 1, and insert "trustee of the trust, and shall authorize the trustee to execute and".

On page 2, line 5, delete everything after "." and insert "Trustee or attorney fees may".

On page 2, line 6, after "proceeds" insert "if approved by the court of proper jurisdiction".

On page 2, line 13, delete "held in the trust" and insert "remaining in the trust following distribution to the county and payment of trustee and attorney fees as provided in section 4 of this Act".

1 On page 2, after line 23, insert:

2 " Section 7. Notwithstanding the provisions of this Act, the requirements of Title 55, or the  
3 requirements of chapter 43-41B, no action or proceeding may be maintained against a trustee  
4 of any trust created under the provisions of this Act for breach of any duty imposed by this Act,  
5 Title 55, or chapter 43-41B, absent a preliminary showing made by clear and convincing  
6 evidence that the actions of the trustee were reckless, grossly negligent, or intentional."

7 1002ta

8 On page 1, line 6, of the printed bill, after "favor" delete "or" and insert "of".

9 On page 2, line 17, delete "42-41B" and insert "43-41B".

10 And that as so amended said bill do pass.

11 Also MR. SPEAKER:

12 The Committee on Agriculture and Natural Resources respectfully reports that it has had  
13 under consideration HB 1167 and returns the same with the recommendation that said bill be  
14 amended as follows:

15 1167tb

16 On page 1 of the printed bill, delete line 8, and insert "~~reviewing~~, and one representative  
17 from each of the following organizations: USDA/APHIS/Wildlife Services,".

18 On page 1, line 9, delete everything before "the South" .

19 And that as so amended said bill do pass.

20 Also MR. SPEAKER:

21 The Committee on Agriculture and Natural Resources respectfully reports that it has had  
22 under consideration HB 1160 which was deferred to the 41<sup>st</sup> Legislative Day.

23 Respectfully submitted,  
24 Charles B. Hoffman, Chair

25 Also MR. SPEAKER:

26 The Committee on Transportation respectfully reports that it has had under consideration  
27 SB 41 and 45 and returns the same with the recommendation that said bills do pass.

1 Also MR. SPEAKER:

2 The Committee on Transportation respectfully reports that it has had under consideration  
3 SB 48 and 49 and returns the same with the recommendation that said bills do pass and be  
4 placed on the consent calendar.

5 Respectfully submitted,  
6 Steve Hickey, Vice Chair

7 Also MR. SPEAKER:

8 The Committee on Local Government respectfully reports that it has had under  
9 consideration HB 1158 and returns the same with the recommendation that said bill be amended  
10 as follows:

11 1158ta

12 On page 1, line 8, of the printed bill, after "The" insert "proposed".

13 And that as so amended said bill do pass and be placed on the consent calendar.

14 Also MR. SPEAKER:

15 The Committee on Local Government respectfully reports that it has had under  
16 consideration HB 1230 which was tabled.

17 Also MR. SPEAKER:

18 The Committee on Local Government respectfully reports that it has had under  
19 consideration HB 1224 which was deferred to the 41<sup>st</sup> Legislative Day.

20 Respectfully submitted,  
21 Tim Rounds, Chair

22 Also MR. SPEAKER:

23 The Committee on Health and Human Services respectfully reports that it has had under  
24 consideration SB 23 and returns the same with the recommendation that said bill do pass.

1 Also MR. SPEAKER:

2 The Committee on Health and Human Services respectfully reports that it has had under  
3 consideration HB 1233 and returns the same with the recommendation that said bill be amended  
4 as follows:

5 1233ja

6 On page 1, line 11, of the printed bill, after "D.O.," insert "D.C.,".

7 And that as so amended said bill do pass.

8 Also MR. SPEAKER:

9 The Committee on Health and Human Services respectfully reports that it has had under  
10 consideration HB 1227 which was deferred to the 41<sup>st</sup> Legislative Day.

11 Respectfully submitted,  
12 Scott Munsterman, Chair

13 **MESSAGES FROM THE SENATE**

14 MR. SPEAKER:

15 I have the honor to return herewith HB 1012, 1051, 1054, and 1064 which have passed the  
16 Senate without change.

17 Also MR. SPEAKER:

18 I have the honor to transmit herewith SB 8, 9, 29, 30, 56, 80, 117, 139, 145, 146, 168, and  
19 223 which have passed the Senate and your favorable consideration is respectfully requested.

20 Respectfully,  
21 Jeannette Schipper, Secretary

**MOTIONS AND RESOLUTIONS**

HCR 1004 Introduced by: Representatives Hoffman, Cammack, Craig, Duvall, Feickert, Olson (Betty), Otten (Herman), Qualm, Schaefer, Schrempp, and Verchio and Senators Krebs, Brown, Frerichs, Lucas, Otten (Ernie), Rampelberg, Rhoden, and Vehle

A CONCURRENT RESOLUTION, Expressing support for the 2013 South Dakota coordinated plan for natural resources conservation.

WHEREAS, South Dakota's natural resources are the foundation of our area's quality of life and economic health; and

WHEREAS, while South Dakotans currently enjoy the benefits of our natural resources, they are also responsible for ensuring that future generations have the same opportunities; and

WHEREAS, South Dakota's conservation districts, conservation partners, and State Conservation Commission developed a joint coordinated plan that creates a framework of opportunity for all South Dakotans to voluntarily participate in caring for our natural resources; and

WHEREAS, the coordinated plan for natural resources includes broad goals that promote local flexibility to address natural resource priorities and objectives:

NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the Eighty-Eighth Legislature of the State of South Dakota, the Senate concurring therein, that the South Dakota Legislature supports the 2013 South Dakota coordinated plan for natural resources conservation as a means of ensuring the sustained conservation and wise use of the natural resources of the great state of South Dakota.

Was read the first time and the Speaker waived the committee referral.

HCR 1005 Introduced by: Representatives Gosch, Bartling, Bolin, Cronin, Ecklund, Erickson, Feinstein, Gibson, Greenfield, Haggard (Jenna), Hansen, Hawks, Hawley, Heinemann (Leslie), Heinert, Hoffman, Hunhoff (Bernie), Johns, Kaiser, Killer, Kirschman, Lust, Magstadt, Miller, Nelson, Novstrup (David), Parsley, Peterson, Rasmussen, Ring, Romkema, Rounds, Russell, Schoenfish, Schrempp, Sly, Soli, Stalzer, Steele, Tyler, Verchio, Wick, and Wismer and Senators Hunhoff (Jean), Adelstein, Bradford, Brown, Buhl, Ewing, Frerichs, Holien, Jensen, Johnston, Jones, Kirkeby, Krebs, Lederman, Lucas, Monroe, Novstrup (Al), Olson (Russell), Omdahl, Otten (Ernie), Peters, Rampelberg, Rave, Rhoden, Sohlt, Sutton, Tidemann, Tieszen, Van Gerpen, Vehle, Welke, and White

A CONCURRENT RESOLUTION, Recognizing November 2013 as COPD Awareness Month.

WHEREAS, Chronic Obstructive Pulmonary Disease (COPD), also known as chronic bronchitis and emphysema, is the third leading cause of death in the United States and is the second leading cause of disability; and

1 WHEREAS, pulmonary experts predict that by the year 2020, COPD will become the  
2 leading cause of death worldwide; and

3 WHEREAS, the major risk factor for COPD is smoking. Other risk factors include  
4 environmental and workplace exposure to air pollution, a history of childhood respiratory  
5 infection, and genetics; and

6 WHEREAS, chronic lower respiratory disease (which includes COPD and asthma)  
7 accounted for 6.4 percent of the 2010 South Dakota resident deaths; and

8 WHEREAS, there were over 57,000 hospitalizations for acute respiratory diseases in South  
9 Dakota between 2000-2009 for residents 65 years of age and older; and

10 WHEREAS, half of persons with COPD report that their condition limits their ability to  
11 work, while 34 percent say that COPD keeps them from working, and 17 percent say their  
12 condition limits them in the kind or amount of work they can do; and

13 WHEREAS, early COPD screening and diagnosis is critical, and a diagnostic test for COPD  
14 known as spirometry is available for office use, yet most people are not diagnosed until they  
15 have reached an advanced stage of COPD; and

16 WHEREAS, the American Lung Association in South Dakota is implementing the South  
17 Dakota COPD Strategic Plan, a statewide effort to increase early detection, improve care and  
18 treatment, and prevent and reduce the prevalence of the disease; and

19 WHEREAS, until there is a cure for COPD, increased public awareness, early detection, and  
20 proper health management can slow the progression of the disease and lead to reduced costs and  
21 improved quality of life for our residents:

22 NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the Eighty-  
23 Eighth Legislature of the State of South Dakota, the Senate concurring therein, that the South  
24 Dakota Legislature recognizes the month of November 2013 as COPD Awareness Month  
25 throughout the state in recognition of this deadly disease and its effects on the citizens of South  
26 Dakota and encourages all residents of South Dakota to learn more about the prevention and  
27 treatment of COPD.

28 Was read the first time and the Speaker waived the committee referral.

## 29 **FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS**

30 SB 8: FOR AN ACT ENTITLED, An Act to authorize the South Dakota Building  
31 Authority and the Board of Regents to finance, design, construct, furnish, and equip a sports  
32 performance enhancement facility arena and a new outdoor track and soccer complex at the  
33 University of South Dakota and to make an appropriation therefor.

34 Was read the first time and referred to the Committee on Appropriations.

1 SB 9: FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to accept the  
2 donation of land from the University of South Dakota Foundation for the use and benefit of the  
3 University of South Dakota.

4 Was read the first time and referred to the Committee on Appropriations.

5 SB 29: FOR AN ACT ENTITLED, An Act to authorize the Department of the Military to  
6 purchase land for use by the South Dakota Army National Guard, to make an appropriation  
7 therefor, and to declare an emergency.

8 Was read the first time and referred to the Committee on Appropriations.

9 SB 30: FOR AN ACT ENTITLED, An Act to authorize the Department of the Military to  
10 construct a motor vehicle storage building in Sioux Falls, to make an appropriation therefor, and  
11 to declare an emergency.

12 Was read the first time and referred to the Committee on Appropriations.

13 SB 56: FOR AN ACT ENTITLED, An Act to define a credit card bank and to revise  
14 certain provisions regarding the distribution of the bank franchise tax.

15 Was read the first time and referred to the Committee on State Affairs.

16 SB 80: FOR AN ACT ENTITLED, An Act to reinstate certain provisions repealed in the  
17 Eighty-seventh Legislative Session regarding the accounting for federal impact aid.

18 Was read the first time and referred to the Committee on Education.

19 SB 117: FOR AN ACT ENTITLED, An Act to provide for an expedited endorsement of  
20 certain licenses, certificates, registrations, and permits for spouses of active duty military  
21 personnel.

22 Was read the first time and referred to the Committee on State Affairs.

23 SB 139: FOR AN ACT ENTITLED, An Act to regulate certain market activity in a health  
24 exchange.

25 Was read the first time and referred to the Committee on Health and Human Services.



1 SB 145: FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the  
2 content of annual property tax bill.

3 Was read the first time and referred to the Committee on Taxation.

4 SB 146: FOR AN ACT ENTITLED, An Act to provide for the collection of certain gaming  
5 taxes, penalties, and interest and to declare an emergency.

6 Was read the first time and referred to the Committee on State Affairs.

7 SB 168: FOR AN ACT ENTITLED, An Act to require that newborns be screened for  
8 congenital heart defects.

9 Was read the first time and referred to the Committee on Health and Human Services.

10 SB 223: FOR AN ACT ENTITLED, An Act to clarify the open meetings requirement as  
11 applied to the Public Utilities Commission.

12 Was read the first time and referred to the Committee on Judiciary.

13 **SECOND READING OF CONSENT CALENDAR ITEMS**

14 HB 1124: FOR AN ACT ENTITLED, An Act to provide for the appointment of members  
15 of the South Dakota Pulse Crops Council.

16 Was read the second time.

17 The question being "Shall HB 1124 pass as amended?"

18 And the roll being called:

19 Yeas 69, Nays 0, Excused 1, Absent 0

20 Yeas:

21 Bartling; Bolin; Cammack; Campbell; Conzet; Craig; Cronin; Dryden; Duvall; Ecklund;  
22 Erickson; Feickert; Feinstein; Gibson; Greenfield; Haggar (Don); Haggar (Jenna); Hajek;  
23 Hansen; Hawks; Hawley; Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff (Bernie);  
24 Johns; Kaiser; Killer; Kirschman; Kopp; Latterell; Lust; Magstadt; May; Mickelson; Miller;  
25 Munsterman; Nelson; Novstrup (David); Olson (Betty); Otten (Herman); Parsley; Peterson;  
26 Qualm; Rasmussen; Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenfish;  
27 Schrempp; Sly; Soli; Solum; Stalzer; Steele; Stevens; Tulson; Tyler; Verchio; Werner; Westra;  
28 Wick; Wink; Wismer; Speaker Gosch

1       Excused:  
2       Carson

3       So the bill having received an affirmative vote of a majority of the members-elect, the  
4       Speaker declared the bill passed and the title was agreed to.

5       HB 1101: FOR AN ACT ENTITLED, An Act to revise certain provisions relating to public  
6       employee grievance procedures.

7       Was read the second time.

8       The question being "Shall HB 1101 pass as amended?"

9       And the roll being called:

10       Yeas 69, Nays 0, Excused 1, Absent 0

11       Yeas:  
12       Bartling; Bolin; Cammack; Campbell; Conzet; Craig; Cronin; Dryden; Duvall; Ecklund;  
13       Erickson; Feickert; Feinstein; Gibson; Greenfield; Haggar (Don); Haggar (Jenna); Hajek;  
14       Hansen; Hawks; Hawley; Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff (Bernie);  
15       Johns; Kaiser; Killer; Kirschman; Kopp; Latterell; Lust; Magstadt; May; Mickelson; Miller;  
16       Munsterman; Nelson; Novstrup (David); Olson (Betty); Otten (Herman); Parsley; Peterson;  
17       Qualm; Rasmussen; Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenfish;  
18       Schrempp; Sly; Soli; Solum; Stalzer; Steele; Stevens; Tulson; Tyler; Verchio; Werner; Westra;  
19       Wick; Wink; Wismer; Speaker Gosch

20       Excused:  
21       Carson

22       So the bill having received an affirmative vote of a majority of the members-elect, the  
23       Speaker declared the bill passed and the title was agreed to.

24       **SECOND READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

25       HB 1126: FOR AN ACT ENTITLED, An Act to repeal the massage therapy licensing  
26       requirements and regulatory board.

27       Was read the second time.

1 1126oa

2 Rep. Wink moved that HB 1126 be amended as follows:

3 On page 9, after line 16 of the printed bill, insert:

4 " Section 27. Terms in this Act mean:

5 (1) "Board," the Board of Massage Therapy;

6 (2) "Massage," the systematic mobilization of the soft tissues of the body through the  
7 application of hands or devices for the purposes of therapy, relaxation, or education  
8 through means which include:

9 (a) Pressure, friction, stroking, rocking, kneading, percussion, compression, or  
10 stretching;

11 (b) External application of water, heat, cold, lubricants, or other topical agents; or

12 (c) The use of devices that mimic or enhance actions done by hands;

13 (3) "Practice of massage therapy," the performance of massage for a fee or other  
14 compensation or holding oneself out to the public as performing massage.

15 Section 28. The board consists of five members appointed by the Governor. The terms of  
16 the initial members of the board shall be staggered by the drawing of lots with three of the initial  
17 members serving a term of three years, two of the initial members serving a term of two years,  
18 and one of the initial members serving a term of one year. Any subsequent term on the board  
19 shall be three years. One member of the board shall be a person not registered by the board. Four  
20 members of the board shall be persons registered by the board, two of whom shall have received  
21 their training under an apprenticeship. The Governor shall fill any vacancy by appointment to  
22 complete the unexpired portion of that member's term. No person may serve more than three  
23 consecutive full terms on the board. The appointment to an unexpired term is not considered a  
24 full term.

25 The terms of members shall begin on October thirty-first of the calendar year in which the  
26 Governor appoints the member, unless otherwise designated by the Governor. The appointee's  
27 term shall expire on October thirtieth in the third year of appointment.

28 Section 29. Any member of the board may resign by giving written notice to the board and  
29 to the Governor. A resignation is effective when delivered to the Governor and the board.

30 Section 30. The board shall annually select a president, vice president, and secretary. No  
31 person may serve more than three consecutive terms as president. The board may hire an  
32 executive secretary to perform any managerial, clerical, or other duties directed by the board.

Section 31. The board shall meet at least annually at a place and time set by the board. The board may hold special meetings at a time and place set by the president or a majority of the board by giving written notice to the board prior to the meeting.

Section 32. Three board members present at any meeting constitute a quorum. No board action may occur unless approved by a majority vote of the entire board.

Section 33. Board members shall receive a per diem set pursuant to § 4-7-10.4 and expenses at the same rate as other state employees while actually engaged in official duties.

Section 34. Any person engaged in the practice of massage in this state shall conspicuously display a valid registration from the board in the person's place of business.

Section 35. Any fees collected under this Act shall be used for the operation of the board and the implementation of this Act.

Section 36. Any person who engages in the practice of massage or holds himself or herself out to the public as engaged in the practice of massage without a registration pursuant to this Act is guilty of a Class 1 misdemeanor. The board may file a civil action to enjoin any person engaging in the practice of massage therapy without a valid registration.

Section 37. The board may issue a registration to engage in the practice of massage to any person who submits an application form and the nonrefundable application fee as approved in § 36-35-17 and who provides verification of the following:

- (1) The applicant is eighteen years of age or older;
- (2) The applicant has obtained a high school diploma or equivalent;
- (3) Absence of unprofessional conduct;
- (4) Professional liability insurance coverage pursuant to section 43 of this Act; and
- (5) The applicant has passed an examination administered by a national certification board approved by the board.

Any person applying for registration under this Act is not required to comply with the examination requirements if the applicant can verify no less than two hundred fifty hours of training or study in the practice of massage with a board approved facility or instructor or as an apprentice to a registrant under this Act.

Section 38. Any massage therapist licensed in South Dakota as of January 1, 2013, shall automatically be issued a registration with an expiration date of September 30, 2014.

Section 39. Unless automatically issued under section 38 of this Act, a registration issued under this Act is valid until September thirtieth following the date it is issued and automatically expires unless it is renewed.

1       Section 40. For the purposes of this Act, any of the following acts constitute unprofessional  
2       conduct:

- 3       (1)     Conviction of any felony, any crime involving or relating to the practice of massage,  
4             or any crime involving dishonesty or moral turpitude;
- 5       (2)     Abuse of or addiction to alcohol, marijuana, or any controlled substance;
- 6       (3)     Providing the board false or misleading information on any application for a  
7             registration or renewal of a registration;
- 8       (4)     Willful misconduct or negligence in the practice of massage;
- 9       (5)     Exceeding the scope of practice of massage as defined in this Act;
- 10      (6)     Engaging in any lewd or immoral conduct;
- 11      (7)     Making fraudulent charges for services;
- 12      (8)     Engaging in conduct which endangers the health or welfare of clients or other  
13             persons; or
- 14      (9)     Failure to comply with any provision of this Act.

15       Section 41. Any person holding a valid license, certification, or registration to practice  
16       massage therapy from another state whose requirements for licensure, certification, or  
17       registration are not less restrictive than this state, is not required to take the examination for  
18       registration required in section 37 of this Act. Any person applying for a registration under this  
19       section shall submit an application as required by section 37 of this Act, along with proof of a  
20       current license, certificate, or registration.

21       Section 42. Any applicant for a registration under this Act shall submit a nonrefundable  
22       application fee of seventy-five dollars. Any person who has a registration renewed by the board  
23       shall submit a renewal fee of forty dollars.

24       Section 43. A registrant shall carry malpractice or professional liability insurance, with a  
25       company with a certificate of authority from the South Dakota Division of Insurance, with limits  
26       of no less than two hundred fifty thousand dollars per occurrence. A registrant shall notify the  
27       board of any change of carrier occurring after a registration or renewal is granted.

28       Section 44. The board shall receive and investigate any complaint filed with the board  
29       alleging that any registered massage therapist has violated the requirements of this Act.

30       Section 45. The board may cancel, suspend, or revoke a registration following a contested  
31       case hearing in compliance with chapter 1-26 upon satisfactory proof of incompetence,  
32       unprofessional conduct, or a violation of any provision of this Act. The board may waive the  
33       requirement of prior notice and an informal meeting set forth in § 1-26-29 if the registrant  
34       presents an immediate threat to the public or has engaged in willful misconduct. Any person

1 may appeal the cancellation, suspension, or revocation of a registration in compliance with  
2 chapter 1-26.

3 Section 46. The board may promulgate rules pursuant to chapter 1-26 in the following areas:

- 4 (1) The form and information required for any registration application;
- 5 (2) Criteria for recognized facilities or instructors who may provide training or  
6 instruction required for registration;
- 7 (3) Approval of national certifying examinations; and
- 8 (4) The procedures for conducting complaint investigations.

9 Section 47. The provisions of this Act do not apply to any person performing massage for  
10 compensation if the massage is done under one of the following circumstances:

- 11 (1) As part of a licensed practice as a physician, physician assistant, chiropractor, nurse,  
12 physical therapist, athletic trainer, or other health care profession licensed or certified  
13 pursuant to the provisions of Title 36;
- 14 (2) As part of a licensed practice pursuant to chapter 36-14 or 36-15, if the licensee is  
15 performing within the scope of the licensed practice and the licensee does not hold  
16 himself or herself out to be a massage therapist or to be engaged in the practice of  
17 massage therapy;
- 18 (3) In furtherance of duties as an employee of the United States;
- 19 (4) As part of a course of study with a facility or instructor recognized and approved by  
20 the board to provide training in massage or the provision of such instruction;
- 21 (5) As part of providing a course of instruction or continuing education in the practice  
22 of massage therapy on a temporary basis not in excess of ten days; or
- 23 (6) Manipulation of the soft tissues of the human body is restricted to the hands, feet,  
24 ankles, or ears and the person does not hold himself or herself out to be a massage  
25 therapist or to be engaged in the practice of massage therapy."

26 Which motion lost.

1126jb

Rep. Munsterman moved that HB 1126 be amended as follows:

On the printed bill, delete everything after the enacting clause and insert:

" Section 1. That § 36-35-12 be amended to read as follows:

36-35-12. The board ~~may~~ shall issue a license to engage in the practice of massage to any person who submits an application form and the nonrefundable application fee as approved in § 36-35-17 and who demonstrates the following qualifications:

- (1) Eighteen years of age or older;
- (2) Good moral character;
- (3) High school diploma or equivalent;
- (4) Completion of no less than five hundred hours of training or study in the practice of massage with a facility or instructor recognized by the board;
- (5) Absence of unprofessional conduct;
- (6) Professional liability insurance coverage with limits at or above an amount set by the board; and
- (7) Passing score on an examination administered by a national certification board approved by the board in rules promulgated pursuant to chapter 1-26.

A license issued under this chapter is valid for a period of one year from the date it was issued and automatically expires unless it is renewed. The board may refuse to grant a license to any person based on failure to demonstrate the requirements of this section. An applicant may appeal the denial of a license in compliance with chapter 1-26."

Which motion prevailed.

The question being "Shall HB 1126 pass as amended?"

And the roll being called:

Yeas 41, Nays 28, Excused 1, Absent 0

1 Yeas:

2 Cammack; Campbell; Conzet; Craig; Dryden; Ecklund; Feinstein; Greenfield; Haggar (Don);  
3 Haggar (Jenna); Hajek; Hansen; Heinemann (Leslie); Hickey; Johns; Kaiser; Kopp; Latterell;  
4 Magstadt; May; Miller; Munsterman; Nelson; Novstrup (David); Olson (Betty); Otten  
5 (Herman); Qualm; Rasmussen; Romkema; Russell; Schaefer; Sly; Solum; Stalzer; Steele;  
6 Stevens; Tulson; Werner; Wick; Wink; Speaker Gosch

7 Nays:

8 Bartling; Bolin; Cronin; Duvall; Erickson; Feickert; Gibson; Hawks; Hawley; Heinert;  
9 Hoffman; Hunhoff (Bernie); Killer; Kirschman; Lust; Mickelson; Parsley; Peterson; Ring;  
10 Rounds; Rozum; Schoenfish; Schrempp; Soli; Tyler; Verchio; Westra; Wismer

11 Excused:

12 Carson

13 So the bill having received an affirmative vote of a majority of the members-elect, the  
14 Speaker declared the bill passed.

15 The question being on the title.

16 1126jtb

17 Rep. Munsterman moved that the title to HB 1126 be amended as follows:

18 On page 1, line 1, of the printed bill, delete everything after "Act to" and insert "revise the  
19 massage therapy licensing requirements."

20 On page 1, delete line 2.

21 Which motion prevailed and the title was so amended.

22 HB 1153: FOR AN ACT ENTITLED, An Act to exempt certain environmental upgrade  
23 values from assessment during construction and to provide a sunset clause for the environmental  
24 upgrade exemption.

25 Was read the second time.

26 The question being "Shall HB 1153 pass as amended?"

27 And the roll being called:

28 Yeas 69, Nays 0, Excused 1, Absent 0



1 Yeas:

2 Bartling; Bolin; Cammack; Campbell; Conzet; Craig; Cronin; Dryden; Duvall; Ecklund;  
3 Erickson; Feickert; Feinstein; Gibson; Greenfield; Haggar (Don); Haggar (Jenna); Hajek;  
4 Hansen; Hawks; Hawley; Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff (Bernie);  
5 Johns; Kaiser; Killer; Kirschman; Kopp; Latterell; Lust; Magstadt; May; Mickelson; Miller;  
6 Munsterman; Nelson; Novstrup (David); Olson (Betty); Otten (Herman); Parsley; Peterson;  
7 Qualm; Rasmussen; Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenfish;  
8 Schrempp; Sly; Soli; Solum; Stalzer; Steele; Stevens; Tulson; Tyler; Verchio; Werner; Westra;  
9 Wick; Wink; Wismer; Speaker Gosch

10 Excused:

11 Carson

12 So the bill having received an affirmative vote of a majority of the members-elect, the  
13 Speaker declared the bill passed and the title was agreed to.

14 HB 1239: FOR AN ACT ENTITLED, An Act to authorize school districts to increase  
15 certain tax levies for pension and health insurance purposes.

16 Was read the second time.

17 The question being "Shall HB 1239 pass as amended?"

18 And the roll being called:

19 Yeas 33, Nays 36, Excused 1, Absent 0

20 Yeas:

21 Bartling; Bolin; Duvall; Ecklund; Feinstein; Gibson; Greenfield; Hawks; Hawley; Heinemann  
22 (Leslie); Hickey; Hunhoff (Bernie); Johns; Kaiser; Killer; Kirschman; Magstadt; Miller;  
23 Munsterman; Nelson; Parsley; Peterson; Qualm; Rasmussen; Romkema; Rozum; Schoenfish;  
24 Sly; Solum; Stevens; Tulson; Tyler; Werner

25 Nays:

26 Cammack; Campbell; Conzet; Craig; Cronin; Dryden; Erickson; Feickert; Haggar (Don);  
27 Haggar (Jenna); Hajek; Hansen; Heinert; Hoffman; Kopp; Latterell; Lust; May; Mickelson;  
28 Novstrup (David); Olson (Betty); Otten (Herman); Ring; Rounds; Russell; Schaefer; Schrempp;  
29 Soli; Stalzer; Steele; Verchio; Westra; Wick; Wink; Wismer; Speaker Gosch

30 Excused:

31 Carson

32 So the bill not having received an affirmative vote of a two-thirds majority of the members-  
33 elect, the Speaker declared the bill lost.

34 Rep. Schoenfish announced his intention to reconsider the vote by which HB 1239 lost.

1 HB 1174: FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to  
2 snowmobile operation.

3 Was read the second time.

4 The question being "Shall HB 1174 pass as amended?"

5 And the roll being called:

6 Yeas 69, Nays 0, Excused 1, Absent 0

7 Yeas:

8 Bartling; Bolin; Cammack; Campbell; Conzet; Craig; Cronin; Dryden; Duvall; Ecklund;  
9 Erickson; Feickert; Feinstein; Gibson; Greenfield; Haggar (Don); Haggar (Jenna); Hajek;  
10 Hansen; Hawks; Hawley; Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff (Bernie);  
11 Johns; Kaiser; Killer; Kirschman; Kopp; Latterell; Lust; Magstadt; May; Mickelson; Miller;  
12 Munsterman; Nelson; Novstrup (David); Olson (Betty); Otten (Herman); Parsley; Peterson;  
13 Qualm; Rasmussen; Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenfish;  
14 Schrempp; Sly; Soli; Solum; Stalzer; Steele; Stevens; Tulson; Tyler; Verchio; Werner; Westra;  
15 Wick; Wink; Wismer; Speaker Gosch

16 Excused:

17 Carson

18 So the bill having received an affirmative vote of a majority of the members-elect, the  
19 Speaker declared the bill passed and the title was agreed to.

20 HB 1208: FOR AN ACT ENTITLED, An Act to prohibit the unlawful release of medical  
21 waste and to provide a penalty therfor.

22 Was read the second time.

23 1208xa

24 Rep. Feinstein moved that HB 1208 be amended as follows:

25 On page 1, line 11, of the House Health and Human Services Committee engrossed bill,  
26 delete "criminal".

27 Which motion prevailed.

1 The question being "Shall HB 1208 pass as amended?"

2 And the roll being called:

3 Yeas 64, Nays 5, Excused 1, Absent 0

4 Yeas:

5 Bartling; Bolin; Cammack; Campbell; Conzet; Craig; Cronin; Dryden; Duvall; Ecklund;  
6 Erickson; Feickert; Feinstein; Gibson; Greenfield; Haggar (Don); Hajek; Hansen; Hawks;  
7 Hawley; Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff (Bernie); Johns; Killer;  
8 Kirschman; Kopp; Latterell; Lust; Magstadt; Mickelson; Miller; Munsterman; Nelson; Novstrup  
9 (David); Olson (Betty); Otten (Herman); Parsley; Peterson; Qualm; Rasmussen; Ring;  
10 Romkema; Rozum; Schaefer; Schoenfish; Schrempp; Sly; Soli; Solum; Stalzer; Steele; Stevens;  
11 Tulson; Tyler; Verchio; Werner; Westra; Wick; Wink; Wismer; Speaker Gosch

12 Nays:

13 Haggar (Jenna); Kaiser; May; Rounds; Russell

14 Excused:

15 Carson

16 So the bill having received an affirmative vote of a majority of the members-elect, the  
17 Speaker declared the bill passed and the title was agreed to.

18 HB 1164: FOR AN ACT ENTITLED, An Act to establish a classroom innovation grant  
19 program and to make an appropriation therefor.

20 Was read the second time.

21 1164cb

22 Rep. Lust moved that HB 1164 be amended as follows:

23 On page 1 of the printed bill, delete lines 8 to 10, inclusive.

24 On page 2, line 4, delete "2014" and insert "2015".

25 Which motion prevailed.

26 The question being "Shall HB 1164 pass as amended?"

27 And the roll being called:

28 Yeas 60, Nays 9, Excused 1, Absent 0

1 Yeas:

2 Bartling; Cammack; Campbell; Conzet; Craig; Dryden; Duvall; Ecklund; Erickson; Feickert;  
3 Feinstein; Gibson; Greenfield; Haggar (Don); Haggar (Jenna); Hajek; Hansen; Hawks; Hawley;  
4 Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff (Bernie); Johns; Killer; Kirschman;  
5 Kopp; Latterell; Lust; Magstadt; Mickelson; Miller; Munsterman; Novstrup (David); Olson  
6 (Betty); Otten (Herman); Parsley; Peterson; Qualm; Rasmussen; Ring; Romkema; Rounds;  
7 Rozum; Schaefer; Schoenfish; Schrempp; Sly; Soli; Solum; Stalzer; Steele; Stevens; Tulson;  
8 Tyler; Werner; Westra; Wick; Wink

9 Nays:

10 Bolin; Cronin; Kaiser; May; Nelson; Russell; Verchio; Wismer; Speaker Gosch

11 Excused:

12 Carson

13 So the bill having received an affirmative vote of a two-thirds majority of the members-  
14 elect, the Speaker declared the bill passed and the title was agreed to.

15 There being no objection, the House reverted to Order of Business No. 5.

16 **REPORTS OF STANDING COMMITTEES**

17 MR. SPEAKER:

18 The Committee on Legislative Procedure respectfully reports that HB 1032 and 1055 were  
19 delivered to his Excellency, the Governor, for his approval at 9:30 a.m., February 5, 2013.

20 Also MR. SPEAKER:

21 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing  
22 and Enrolling has carefully compared HB 1012, 1051, 1054, and 1064 and finds the same  
23 correctly enrolled.

24 Respectfully submitted,  
25 Brian G. Gosch, Chair

26 **SIGNING OF BILLS**

27 The Speaker publicly read the title to

28 HB 1012: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the  
29 students eligible for resident tuition benefits at universities controlled by the Board of Regents.

1 HB 1051: FOR AN ACT ENTITLED, An Act to revise certain provisions related to the  
2 director's orders to hazardous insurers.

3 HB 1054: FOR AN ACT ENTITLED, An Act to repeal certain rule-making authority for  
4 the director of insurance.

5 HB 1064: FOR AN ACT ENTITLED, An Act to provide for certain methods of  
6 disbursement for school district flexible spending accounts.

7 SB 38: FOR AN ACT ENTITLED, An Act to increase the penalty for sexual acts between  
8 correction facility employees and juvenile detainees.

9 SB 58: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the  
10 electronic filing of motor fuel tax reports and the electronic remittance of motor fuel tax.

11 SB 70: FOR AN ACT ENTITLED, An Act to improve public safety.

12 And signed the same in the presence of the House.

13 Rep. Steele moved that the House do now adjourn, which motion prevailed and at  
14 3:28 p.m. the House adjourned.

15 Arlene Kvislen, Chief Clerk